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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/057,610 | 01/25/2002 | Richard Wisniewski | 2035750 | 3124 |

7590 09/30/2003

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EXAMINER

FORD, JOHN K

| ART UNIT | PAPER NUMBER |
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3743

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

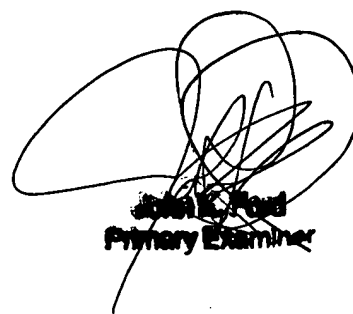
The reply filed on April 21, 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): item 2. "Second Declaration of Richard Wisniewski" was not received with Applicant's response of April 21, 2003. It is the Examiner's recollection that the second declaration also refers to portions of a first declaration, which are also not of record in this application. To proceed with orderly examination, and appeal, should one be forthcoming this evidence (i.e. second and first declarations), must be made of record at this juncture. The Examiner is aware that applicant's certificate of mailing dated April 21, 2003 explicitly stated that a second declaration of Richard Wisniewski was included, however a thorough search of the file has not revealed such a paper. Regardless of any explanation of the omission (e.g. misplaced in the PTO, or inadvertently omitted) the file does not contain a copy of the second declaration nor the first declaration upon which the second declaration depends for completeness.

It is also believed that the second declaration may be superceded by a third declaration which applicant and/or counsel may be preparing at present in an attempt to explain why no inquiry was made of Mr. Leonard or of knowledgeable persons at Genentech as to the dimensions of the prior art Genentech device disclosed in the 1992 Wisniewski and Wu article without any of the relevant dimensions (e.g. the diameter of the tank and the sizes of the fins and the fin to tank wall spacing). If this is the case, counsel may expedite matters by additionally filing any such superceding or clarifying materials here in addition to the first and second declarations required above.

Art Unit: 3743

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication should be directed to John Ford at telephone number 703-308-2636.



John K. Ford
Primary Examiner